

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Eugene Rider, *et. al.*

Serial No.: 10/757,578

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Group Art Unit: 3691

Examiner: Bijendra K. Shrestha

For: **KNOWLEDGE PORTAL FOR EVALUATING PRODUCT ATTRACTIVENESS AND RISK**

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REPLY UNDER 37 C.F.R. § 1.114

Sir:

In response to the Final Office Action mailed October 5, 2009 ("Office Action"), Applicants respectfully request reconsideration of the application in view of the following Amendments and Remarks. A Request for Continued Examination is attached herewith. A petition for a three month extension of time is also attached herewith extending the period of time for reply to April 5, 2010.

If any additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a). Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 23-1951.

AMENDMENTS TO THE CLAIMS

Please **CANCEL** claims 40 and 41, without prejudice or disclaimer; and
AMEND claims 17, 23, 34 and 35 as shown below. The following is a complete list of
all claims in this application.

1. (withdrawn) A method of assessing a product, comprising the steps
of:

assessing one or more characteristics associated with a product, each
of the one or more characteristics having an associated predetermined score
based on age; and

generating a risk product score for the product based on each of the
one or more assessed characteristics and associated predetermined scores.

2. (withdrawn) The method of claim 1, wherein the risk product score
includes:

one or more attractiveness characteristic score associated with the
product; and

one or more mitigation characteristic score associated with the
product.

3. (withdrawn) The method of claim 1, wherein the generating step comprises generating one or more attractiveness product scores for the product based on each of the one or more characteristics.

4. (withdrawn) The method of claim 1, wherein the generating step comprises generating one or more mitigation scores for the product based on each of the one or more characteristics.

5. (withdrawn) The method of claim 4, wherein the one or more mitigation scores includes at least one of a caregiver perception, a user perception, a value, and a labeling effectiveness.

6. (withdrawn) The method of claim 1, wherein the generating step generates the risk product scores based on one or more age brackets.

7. (withdrawn) The method of claim 6, wherein the risk product score is provided by one or more age brackets.

8. (withdrawn) The method of claim 1, wherein the generating step generates one or more attractiveness scores and one or more mitigation scores for the product.

9. (withdrawn) The method of claim 8, wherein the risk product score is a combination of the one or more attractiveness scores and the one or more mitigation scores.

10. (withdrawn) The method of claim 9, wherein the one or more mitigation scores offset the one or more attractiveness scores.

11. (withdrawn) The method of claim 1, wherein in the generating step further includes generating the one or more overall risk product score based on one or more age brackets.

12. (withdrawn) The method of claim 1, further comprising the steps of:
assessing one or more exploration characteristics associated with the product; and
generating one or more exploration scores based upon the assessed one or more exploration characteristics.

13. (withdrawn) The method of claim 12, wherein the one or more exploration scores are provided by one or more age brackets.

14. (withdrawn) The method of claim 13, wherein the one or more exploration scores are color coded.

15. (withdrawn) The method of claim 12, wherein the one or more exploration characteristics include at least one of a mouthing object, an alternating mouthing and looking object, a rotating object, a insertion (body into object) attribute, a insertion (object into body) attribute, a transferring hand to hand attribute, a banging objects attribute, a dropping objects attribute, a throwing objects attribute, a combining objects, a using appropriately attribute, a representational play attribute, a using imaginatively object attribute, and a testing the limits attribute.

16. (withdrawn) The method of claim 1, wherein the one or more characteristics include at least one of a sensory attribute, a physical attribute, and a cognitive attribute.

17. (currently amended) A computer-implemented method for assessing product risk comprising the steps of:

providing predetermined attractiveness scores associated with ~~one or more~~ product attributes and one or more age brackets for a product, wherein the providing occurs prior to a market introduction of the product, the product attributes including images, color, textures, movement, light, noise, smell and taste;

prompting for feedback relating to each of the ~~one or more~~ product attributes;

computing at least one product score for the ~~one or more~~ product attributes based on the predetermined attribute scores and the feedback; and

outputting the at least one product score to be used at least in part to change a design criteria of the product,

wherein the providing, prompting, computing and outputting steps are performed by a computer.

18. (original) The method of claim 17, further comprising the steps of:

prompting for mitigation feedback; and

generating at least one mitigation score based on the mitigation feedback, wherein the mitigation score provides a mitigation to the product score.

19. (original) The method of claim 18, wherein the mitigation feedback

relates to at least one of a caregiver perception, a user perception, a value, and a labeling effectiveness.

20. (original) The method of claim 18, further comprising the steps of:

generating a composite mitigation score associated with one or more age brackets and based on the at least one mitigation score;

generating a composite attractiveness score based on the one or more age brackets and based on the at least one attractiveness score; and

generating a composite product score based on the composite attractiveness score and the composite mitigation score, wherein the composite mitigation score offsets the composite attractiveness score.

21. (original) The method of claim 20, wherein the composite product score is indicative of risk level for a certain age group using a certain product.

22. (original) The method of claim 18, wherein the mitigation score is color coded.

23. (currently amended) The method of claim 17, wherein the ~~one of~~ ~~more~~ product attributes include at least one of a sensory attribute, a physical attribute, and a cognitive attribute.

24. (original) The method of claim 23, wherein the sensory attribute includes at least one of a image attribute, a color attribute, a texture attribute, a movement attribute, a light attribute, a sound attribute, a smell attribute, and a taste attribute, and wherein the cognitive attribute includes at least one of a challenge attribute and an influential attribute.

25. (original) The method of claim 24, wherein the image attribute includes at least one of a no face, a simple outline of a face, a representation of a human face, a representation of a recognizable character, a representation of a generic character, a recognizable object, and an abstract recognizable image.

26. (original) The method of claim 24, wherein, the color attribute includes at least one of a non-primary/neutral color, a primary/bright color, a black and white color, multiple contrasting colors, and a shiny/reflective color.

27. (original) The method of claim 24, wherein, the challenge attribute includes at least one of opportunity for intellectual challenge and no opportunity for intellectual challenge.

28. (original) The method of claim 23, wherein the physical attribute includes at least one of no physical opportunity, encouraging gross motor skills, encouraging individual fine motor skills, and interactive physical activity attribute.

29. (original) The method of claim 17, further comprising the steps of:
providing one or more predetermined exploration scores having one or more exploration attributes and one or more age brackets;
prompting for feedback relating to one or more exploration questions, each of the one or more exploration questions having an associated one of the one or more predetermined exploration scores; and
generating an exploration summary score based on affirmatively answered questions of the feedback and corresponding associated one or more predetermined exploration scores associated with the affirmatively answered questions, the exploration summary having the one or more exploration attributes and the one or more age brackets,

wherein the exploration summary is indicative of behavior preferences by the one or more age brackets and the one or more exploration attributes.

30. (original) The method of claim 29, wherein the one or more exploration attributes include at least one of a mouthing object, an alternating mouthing and looking object, a rotating object, a first insertion attribute, a second insertion attribute, a transferring hand to hand attribute, a banging objects attribute, a dropping objects attribute, a throwing objects attribute, a combining objects, a using appropriately attribute, a representational play attribute, a using imaginatively object attribute, and a testing the limits attribute.

31. (currently amended) A computer-implemented method for assessing product risk comprising the steps of:

providing predetermined attractiveness scores associated with ~~one or more~~ product attributes and one or more age brackets for a product, the product attributes including images, color, textures, movement, light, noise, smell and taste, wherein the providing predetermined attractiveness scores occurs prior to a market introduction of the product;

providing predetermined mitigation scores associated with one or more mitigation categories and the one or more age brackets;

generating a composite attractiveness score and a composite mitigation score based on feedback; and

generating a composite product score based on a difference between the composite attractiveness score and the composite mitigation score for an age group,

wherein each of the providing and generating steps execute on a computer platform.

32. (original) The method of claim 31, wherein the composite product score is indicative of at least one of behavioral attractiveness and risk.

33. (original) The method of claim 31, further comprising the steps of:

providing one or more predetermined exploration scores having one or more exploration attributes and one or more age brackets;

prompting for feedback relating to one or more exploration questions, each of the one or more exploration questions having an associated one of the one or more predetermined exploration scores; and

generating an exploration summary score based on affirmatively answered exploration questions using the one or more predetermined exploration scores associated with the affirmatively answered questions,

wherein the exploration summary is indicative of behavior preferences by the one or more age brackets and the one or more exploration attributes.

34. (currently amended) The method of claim 31, wherein the ~~one or more~~ product attributes include at least one of a sensory attribute, a physical attribute, and a cognitive attribute and the one or more mitigation categories includes at least one of a caregiver perception, a user perception, a value, and a labeling effectiveness.

35. (currently amended) A ~~system~~ computer program product embodied in a storage medium having components for executing a process, the computer program product when executed on a computer for assessing product attractiveness and risk, comprising:

a first component embodied in a storage medium to provide predetermined attractiveness scores associated with ~~one or more~~ product attributes and one or more age brackets for a product, the product attributes including images, color, textures, movement, light, noise, smell and taste, wherein the first component provides predetermined attractiveness scores prior to a market introduction of the product;

a second component embodied in a storage medium to prompt for feedback relating to each the ~~one or more~~ product attributes; and

a third component embodied in a storage medium to compute a product attractiveness score for the ~~one or more~~ product attributes based on the predetermined attribute scores and the feedback.

36. (previously presented) The system of claim 35, further comprising:

a fourth component embodied in a storage medium to prompt for mitigation feedback; and

a fifth component embodied in a storage medium to generate mitigation score based on the mitigation feedback.

37. (previously presented) The system of claim 35, further comprising a sixth component embodied in a storage medium to generate a composite product score based on a difference between the attractiveness score and the mitigation score.

38. (original) The system of claim 35, wherein the composite product score is indicative of risk level.

39. (original) The system of claim 35, wherein the mitigation score and attractiveness score are color coded.

40-41. (cancelled)

42. (withdrawn) A computer program product comprising a computer usable medium having readable program code embodied in the medium, the computer program product includes at least one component to:

assess one or more characteristics associated with a product, each of the one or more characteristics having an associated predetermined score based on age; and

generate a risk product score for the product based on each of the one or more assessed characteristics and associated predetermined scores.

43. (previously presented) The method of claim 17, wherein the providing step occurs during product design of the product.

44. (previously presented) The method of claim 31, wherein the providing predetermined attractiveness scores step occurs during design of the product.

45. (previously presented) The method of claim 35, wherein the providing predetermined attractiveness scores step occurs during design of the product.

REMARKS

By this amendment, claims 1-39 and 42-45 are pending, with claims 1-16 and 42 being withdrawn from consideration by the Examiner in response to a prior restriction election by Applicant of Group II. Claims 17, 23, 34 and 35 are amended herein to better clarify the claimed invention. Specifically, claim 17 and 31 have been amended to overcome a rejection under 35 U.S.C. § 103(a). Claims 35 and 40 have been cancelled herein, without prejudice or disclaimer, rendering the rejections under 35 U.S.C. 112 moot. No new matter has been added by these Amendments. In view of the above amendments and the following Remarks, Applicants respectfully request reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Rejections Under 35 USC § 103

Claims 17-19, 22-31, and 33-41 stand rejected under 35 U.S.C 103(a) as being unpatentable by JD Power and Associates Report (“JD Power”), in view of U.S. Patent No. 6,449,766 to Fleming (“Fleming”), further in view of U.S. Patent No. 5, 999,908 to Abelow (“Abelow”). Claims 20-21 and 32 stand rejected under 35 U.S.C. 103(a) as being unpatentable by JD Power and Associates Report in view of Fleming, U.S. Patent No. 6,449,766 further in view of U.S. Pub. No. 2005/0086530 to Goddard (“Goddard”). Applicants respectfully traverse these rejections.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of

success. Finally, the reference or references, when combined, must disclose or suggest all of the claim limitations. The motivation to modify the prior art and the reasonable expectation of success must both be found in the prior art and not based upon a patent applicant's disclosure. *See in re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

Applicants submit that the references of record, whether taken singly or taken in combination, fail to disclose or suggest all the claimed limitations.

Amended independent claims 17, 31 and 35 each recite, in part:

the product attributes including images, color, textures, movement, light, noise, smell and taste (Emphasis added)

Further amended independent claim 35 recites, in part:

wherein the first component provides predetermined attractiveness scores prior to a market introduction of the product. (Emphasis added)

However, JD Powers is directed to a study of vehicles based on responses of 16,000 vehicle owners who rated their experiences with their vehicles. (JD Powers page

1, second full paragraph after “FOR IMMEDIATE RELEASE”). This is contrary to the claim language requirements of amended claims 17, 31 and 35. In JD Powers, consumers are already owners of the product (vehicles). Therefore, attractiveness scores associated with one or more product attributes cannot be provided prior to market introduction of the product. Moreover, the consumers in JD Powers are creating essentially post-determined scores. Therefore, JD Powers does not disclose or suggest all the limitations of independent claims 17, 31 and 35. Fleming is directed to a multimedia system that includes a rating system such as MPAA or television rating system for use after market introduction. Fleming therefore fails to cure the deficiencies of JD Powers. Abelow is directed to a customer providing feedback to a designer or manufacturer [Abstract and Summary]. A customer can only be a customer after market introduction. Hence, since a customer is providing feedback, it must necessarily be after market introduction.

Further, claims 17, 31 and 35 have been amended to recite, in part:

the product attributes including images, color, textures, movement, light, noise, smell and taste (Emphasis added)

Applicants submit that JD Powers, Fleming, and Abelow, whether taken alone or in combination, discloses or suggests all the limitations of independent claims 17, 31 and 35, and that claims 17, 31 and 35 are allowable.

Applicants submit that those claims depending from independent claims 17, 31 and 35 are allowable at least because of their dependency. Moreover, no other document of record including Goddard supplies the missing features of JD Powers, whether taken singly or in combination.

Since none of the references discloses or suggests all the claimed limitations, whether taken singly or when taken in combination, Applicants submit that the claims 17-41 are allowable and that all the rejections under 35 U.S.C. 103(a) should now be withdrawn.

Support for Amendments

Support for the amendments to claims 17, 31 and 35 may be found at least at paragraph [0017].

Conclusion

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicants' undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,



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